

1
2
3
4
5
6
7 AMERICAN MARITIME OFFICERS,
8 Plaintiff,
9 v.
10 AMERICAN PRESIDENT LINES, LTD., et
11 al.,
12 Defendants.

Case No. [16-cv-00861-EMC](#)

**ORDER GRANTING DEFENDANT
MMP'S MOTION TO DISMISS**

Docket No. 53

13 Plaintiff American Maritime Officers (AMO) brought the present lawsuit against
14 Defendant American President Lines, Ltd. (APL) and Defendant International Organization of
15 Masters, Mates, and Pilots, affiliated with the International Longshoremen's Associations, AFL-
16 CIO (MMP) for APL's replacement of AMO-represented licensed deck officers (LDOs) with
17 members of other unions, including MMP-represented LDOs.

18 Pending before the Court is MMPs' motion to dismiss or, in the alternative, motion for
19 summary judgment on the grounds that "Plaintiff has failed to exhaust union constitutional
20 procedures before filing the instant lawsuit, failed to state a claim upon which relief can be
21 granted, and failed to follow a court order to invoke the Article XX process and join necessary
22 parties." Docket No. 53 at 2.

23 Federal labor law requires that plaintiffs demonstrate that they have exhausted a union's
24 dispute resolution procedure before bringing a suit to federal courts. *Republic Steel Corp. v.*
25 *Maddox*, 379 U.S. 650, 652 (1965) ("As a general rule in cases to which federal law applies,
26 federal labor policy requires that individual employees wishing to assert contract grievances must
27 attempt use of the contract grievance procedure agreed upon by employer and union as the mode
28 of redress."); *Motion Picture & Videotape Editors Guild, Local 776, I.A.T.S.E. v. Int'l Sound*

1 *Technicians, Cinetechnicians & Television Engineers of Motion Picture & Television Indus. Local*
2 695, 1985 WL 5777, at *3 (C.D. Cal. Sept. 3, 1985) (applying the exhaustion requirement to an
3 intraunion dispute between two local chapters of the International Alliance of Theatrical Stage
4 Employees). “If a failure to exhaust is found,” the Ninth Circuit has state that “the proper
5 disposition is dismissal without prejudice.” *Beyene v. Coleman Sec. Services, Inc.*, 854 F.2d 365,
6 368-69 (9th Cir. 1988) (per curiam).

7 AMO does not dispute there is, as a general matter, a requirement to exhaust the dispute
8 resolution procedures under Article XX of the AFL-CIO Constitution before bringing a lawsuit.
9 Nor does AMO dispute that it has not exhausted those procedures. At the direction of the Court, it
10 commenced proceedings under Article XX, only to have then withdrawn unilaterally and without
11 good excuse from the proceeding. The fact that MMP allegedly had failed to exhaust the
12 procedures earlier would not exempt AMO from the current exhaustion requirement; to the extent
13 AMO argues otherwise, it fails to cite any convincing authority in support of its position. At
14 bottom, AMO does not raise any futility argument or other exceptions from the exhaustion
15 requirement.

16 Thus, the Court therefore orders that Defendant MMP’s motion to dismiss be **GRANTED**
17 without prejudice. Additionally, with respect to Defendant APL, the Court orders that the
18 proceedings be **STAYED** pending AMO’s exhaustion of the dispute resolution procedures under
19 Article XX. AMO is again ordered forthwith to exhaust its remedies under Article XX. Failure to
20 do so will result in dismissal with prejudice.

21 MMP’s motion for summary judgment is moot, given the dismissal order. This order
22 disposes of Docket No. 53.

23
24 **IT IS SO ORDERED.**

25
26 Dated: November 16, 2016



27
28
EDWARD M. CHEN
United States District Judge